

opted to include the benefits defined in § 440.140 or § 440.160.

[59 FR 37716, July 25, 1994, as amended at 65 FR 60107, Oct. 10, 2000; 71 FR 39229, July 12, 2006]

**§ 440.181 Home and community-based services for individuals age 65 or older.**

(a) *Description of services*— Home and community-based services for individuals age 65 or older means services, not otherwise furnished under the State's Medicaid plan, or services already furnished under the State's Medicaid plan but in expanded amount, duration, or scope, which are furnished to individuals age 65 or older under a waiver granted under the provisions of part 441, subpart H of this subchapter. Except as provided in § 441.310, the services may consist of any of the services listed in paragraph (b) of this section that are requested by the State, approved by CMS, and furnished to eligible beneficiaries. Service definitions for each service in paragraph (b) of this section must be approved by CMS.

(b) *Included services.* (1) Case management services.

(2) Homemaker services.

(3) Home health aide services.

(4) Personal care services.

(5) Adult day health services.

(6) Respite care services.

(7) Other medical and social services requested by the Medicaid agency and approved by CMS, which will contribute to the health and well-being of individuals and their ability to reside in a community-based care setting.

[57 FR 29156, June 30, 1992]

**§ 440.185 Respiratory care for ventilator-dependent individuals.**

(a) “Respiratory care for ventilator-dependent individuals” means services that are not otherwise available under the State's Medicaid plan, provided on a part-time basis in the beneficiary's home by a respiratory therapist or other health care professional trained in respiratory therapy (as determined by the State) to an individual who—

(1) Is medically dependent on a ventilator for life support at least 6 hours per day;

(2) Has been so dependent for at least 30 consecutive days (or the maximum

number of days authorized under the State plan, whichever is less) as an inpatient in one or more hospitals, NFs, or ICFs/IID;

(3) Except for the availability of respiratory care services, would require respiratory care as an inpatient in a hospital, NF, or ICF/IID and would be eligible to have payment made for inpatient care under the State plan;

(4) Has adequate social support services to be cared for at home;

(5) Wishes to be cared for at home; and

(6) Receives services under the direction of a physician who is familiar with the technical and medical components of home ventilator support, and who has medically determined that in-home care is safe and feasible for the individual.

(b) For purposes of paragraphs (a)(4) and (5) of this section, a beneficiary's home does not include a hospital, NF, ICF/IID or other institution as defined in § 435.1010 of this chapter.

[59 FR 37717, July 25, 1994, as amended at 71 FR 39229, July 12, 2006]

**Subpart B—Requirements and Limits Applicable to All Services**

**§ 440.200 Basis, purpose, and scope.**

(a) This subpart implements the following statutory requirements—

(1) Section 1902(a)(10), regarding comparability of services for groups of beneficiaries, and the amount, duration, and scope of services described in section 1905(a) of the Act that the State plan must provide for beneficiaries;

(2) Section 1902(a)(22)(D), which provides for standards and methods to assure quality of services;

(3) Section 1903(v)(1), which provides that no payment may be made to a State under this section for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law;

(4) Section 1903(v)(2) which provides that FFP will be available for services necessary to treat an emergency medical condition of an alien not described in paragraph (a)(3) of this section if